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FILED

MAR 18 2015

CLERK, U.S. DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA  
BY \_\_\_\_\_  
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8 IN THE UNITED STATES DISTRICT COURT  
9 EASTERN DISTRICT OF CALIFORNIA

10

11 PIT RIVER TRIBE, ET AL.,

12 Plaintiffs,  
13 v.  
14 BUREAU OF LAND MANAGEMENT, ET  
AL.,  
15 Defendants.

Case No.: 2:04-CV-00956-JAM-JFM

**JOINT MOTION FOR THE DEPOSIT OF  
FUNDS INTO THE COURT'S REGISTRY; AND  
ORDER THEREON**

[No Hearing Requested]

17 Plaintiff Pit River Tribe and the United States defendants (collectively "Movants"), through their  
18 authorized representatives, hereby move for an order authorizing Pit River Tribe to deposit funds into  
19 the court's registry pending the outcome of Pit River Tribe's appeal to the Ninth Circuit Court of  
20 Appeals. The funds will be deposited on behalf of the Pit River Tribe through the Kwhan Coropration, a  
21 Federally Chartered Section 17 Corporation, wholly owned by the Pit River Tribe. The Movants further  
22 request that the order authorize the deposit of funds into an interest bearing account. This Motion is  
23 based on the following grounds:

24 1. On July 29, 2013, the Court granted the United States' motion for judgment on the  
25 pleadings and for summary judgment against the plaintiffs. ECF No. 84. Judgment in the United States'  
26 favor was entered on July 30, 2013.

27 2. The United States thereafter submitted a cost bill in the amount of \$19,851.60. The Court

1 overruled the Plaintiff's objections to the cost bill and awarded the United States' \$19,851.60 in costs.  
2 ECF No. 96.

3       3. Plaintiffs, including Pit River Tribe, filed notices of appeal from both the judgment and  
4 the order awarding costs as USCA Appeal Nos. 13-16961 and 14-15123, respectively.

5       4. The United States, as the judgment creditor, recorded an abstract of judgment in Shasta  
6 County on June 12, 2014 against the Pit River Tribe's real property interests (the "Judgment Lien").

7       5. Pit River Tribe has requested that the United States release its Judgment Lien. Following  
8 negotiations, the United States agrees that it will release the Judgment Lien upon Pit River Tribe's  
9 payment and deposit of \$19,851.60 into the Court's Registry (the "Deposited Funds"), to be deposited  
10 by the Kwhan Corporation. The Movants thus agree that:

11           A. Pit River Tribe through the Kwhan Corporation shall, within five days following the  
12 Court's order approving the deposit, pay to the Clerk, United District Court, \$19,851.60 via  
13 cashier's check;

14           B. Upon Pit River Tribe's payment by the Kwhan Corporation of the \$19,851.60 to the  
15 Clerk, the United States shall release its Judgment Lien;

16           C. The Deposited Funds shall remain in the Court's Registry pending the adjudication of  
17 Pit River Tribe's Appeal No. 14-15123 as set forth below, or further order of the Court;

18           D. If the Court of Appeals affirms the District Court's order awarding the United States'  
19 Costs, or dismisses the appeal of the order awarding costs, the United States will seek an order  
20 for the disbursement of the Deposited Funds plus any accrued interest; and

21           E. Pit River Tribe will not oppose the United States' application for an order disbursing  
22 the Deposited Funds and interest thereon provided the Court of Appeals adjudicates Appeal No.  
23 14-15123 as stated in paragraph 5D, above.

24           F. If the Court of Appeals reverses the District Court's order awarding the United States'  
25 Costs, or grants the appeal of the order awarding costs, or if the Court of Appeals reverses the  
26 District Court's judgment in the related merits appeal, Ninth Circuit Case No. 13-16961, the Pit  
27 River Tribe will seek an order for release of the Deposited Funds plus interest to the Kwhan

1 Corporation; and

2 G. The United States will not oppose an application for release of the Deposited Funds  
3 and interest thereon provided the Court of Appeals adjudicates Appeal No. 14-15123 as stated in  
4 paragraph 5F, above.

5 6. The Movants request that the Deposited Funds be placed into an interest bearing account.

6 Respectfully submitted,

7 FOR THE UNITED STATES:

BENJAMIN B. WAGNER  
United States Attorney

8 Dated: March 13, 2015

9 By: /s/ Kurt A. Didier  
10 KURT A. DIDIER  
11 Assistant United States Attorney

12 FOR PIT RIVER TRIBE:

13 Dated: March 13, 2015

14 By: /s/ Matt Elmore  
15 MATT ELMORE  
16 Chairman, Kwhan Corporation

17 APPROVED AS TO FORM AND CONTENT:

18 Dated: March 13, 2015

19 By: /s/ Darcie L. Houck  
20 DARCIE L. HOUCK, ESQ.  
21 Attorney for Kwhan Corporation

22 APPROVED AS TO FORM:

23 Dated: March 16, 2015

24 /s/ Jeremy J. Donati  
25 JEREMY J. DONATI  
26 Operations Supervisor, U.S. District Court

## ORDER

The Court, having reviewed the court files and the Movants' Joint Motion for Deposit of Funds into the Court's Registry (the "Motion"), and good cause appearing therefrom, hereby GRANTS the Motion. Accordingly, IT IS ORDERED that:

1. The Kwhan Corporation shall pay on behalf of the Pit River Tribe to the Clerk, United States District Court, via cashier's check, \$19,851.60, within five days after the filing of this Order.
  2. The United States shall release its Abstract of Judgment recorded in Shasta County against Pit River Tribe upon Kwhan Corporation's payment of the \$19,851.60.
  3. The Clerk shall promptly deposit the \$19,851.60 into an interest bearing account (the "Deposited Funds").
  4. The Deposited Funds shall not be disbursed until further order of this Court.

**IT IS SO ORDERED.**

Dated: March 17, 2015

  
JOHN A. MENDEZ,  
United States District Judge